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AO 91 (Rev. 5/85) Criminal Complaint

UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO**United States District Court**AUG 23 2010 *de*

IN THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA

MATTHEW J. DYKMAN

v.

CRIMINAL COMPLAINT ^{CLERK}

JOHN CHARLES MCCLUSKEY

Year of Birth: 1965

SSN: XXX-XX-5705

CASE NUMBER:

10MJ2298

(Name and Address of Defendant)

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about August 2, 2010 in Quay and Guadalupe counties, in the District of _____

New Mexico defendant(s) did, (Track Statutory Language of Offense)

unlawfully take, with the intent to cause death or serious bodily injury, a 2006 Chevrolet white four-door/crew cab pickup truck bearing Oklahoma license plate 979DUH, registered to Gary and Linda Haas, with a 32-foot camping trailer in tow, that motor vehicle having been transported, shipped, or received in interstate commerce, from Gary and Linda Haas by force and violence and/or intimidation; and that during the commission of that crime of violence, for which he may be prosecuted in a court of the United States, he discharged a firearm; and that, in the course of violating 18 USC 924(c)(1)(A)(iii), he murdered Gary and Linda.

in violation of Title 18 United States Code, Section(s) 2119(3), 924(c)(1)(A)(iii), and 924(j)(1).

I further state that I am a(n) Special Agent and that this complaint is based on the following facts:
Official Title

See Attached Affidavit hereby incorporated by reference as if fully restated herein.

Continued on the attached sheet and made a part hereof:

☒ Yes ☐ No

[Signature]
Signature of Complainant

Marcus B. McCaskill

Special Agent

Federal Bureau of Investigation

ALBUQUERQUE, NEW MEXICO

Sworn to before me and subscribed in my presence,

8-23-10 at _____
Date **Alan C. Torgerson**
U.S. Magistrate Judge
Name & Title of Judicial Officer

City and State
[Signature]
Signature of Judicial Officer

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA)

VS)

John Charles McCluskey)
Year of Birth: 1965)
SSN: XXX-XX-5705)

AFFIDAVIT

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, the undersigned, being duly sworn, hereby depose
and state as follows:

1. I am a Special Agent (SA) of the Federal Bureau of
Investigation (FBI) and have been employed in this capacity for
approximately twelve years. I am currently assigned to the
Albuquerque Division, and have primary investigative
responsibility for violent crime investigations, including
homicide. The information set forth in this affidavit was
derived from my own investigation and/or was otherwise
communicated to me.

2. On July 30, 2010, John Charles McCluskey, Tracy Allen
Province, and Daniel Renwick escaped from a medium-security
Arizona State Prison near Kingman, AZ. Investigation indicated
that the three were aided in their escape by Casslyn Mae Welch.
Welch is McCluskey's cousin and girlfriend. On August 1, 2010,

1 Renwick was recaptured alone in Colorado.

2
3 3. On August 4, 2010, the debris from a camping trailer
4 that had been burned was located by Guadalupe County Sheriff
5 Michael Lucero. Sheriff Lucero contacted the New Mexico State
6 Police (NMSP) Investigations Bureau. Upon responding to the
7 site, NMSP Agent Jimmy Butterfield identified what appeared to
8 be human remains in the debris of the burned trailer. The New
9 Mexico Office of the Medical Investigator later identified the
10 human remains as Gary Haas (Gary) and Linda Haas (Linda). The
11 location where the debris and human remains were recovered is on
12 River Ranch Road Headquarters near Colonias, NM, in Guadalupe
13 County, New Mexico. Agent Butterfield secured the scene and
14 NMSP obtained a search warrant for the site.

15
16 4. Two dogs were found untended near the burned trailer.
17 One of the dogs had a collar with a tag that contained a
18 telephone number. Sheriff Lucero reached Kathy Byus by
19 telephone at the number listed on the dog's tag. Byus told
20 Sheriff Lucero that the dogs belonged to her but that they
21 should be with her parents, Gary and Linda. Gary and Linda were
22 on an annual vacation to Pagosa Springs, CO, driving a white
23 Chevrolet pickup and towing a camping trailer. Gary and Linda,
24 who resided in Tecumseh, OK, typically drove through New Mexico
25 and often camped near Santa Rosa, NM, on their way to Pagosa
26 Springs, CO. Byus also advised that both Gary and Linda
27 possessed concealed-carry firearms permits and usually traveled
28 with at least one firearm in the truck or trailer. She believed

ACT

1 that Gary and Linda owned several firearms, possibly a .38
2 caliber Taurus handgun, .45 caliber 1911 model handgun, and/or a
3 .40 caliber Glock handgun. Byus expressed her worry that the
4 dogs had been found untended and that Gary and Linda had not
5 contacted her regarding the burned trailer.

6
7 5. Steve Walker, a close family friend of Gary and
8 Linda's, contacted Sheriff Lucero by telephone. Walker told
9 Sheriff Lucero that he had contacted OnStar about the current
10 location of the Gary and Linda's Chevrolet pickup truck. OnStar
11 told Walker that the vehicle was located at a shopping center
12 near 6601 4th Street in Albuquerque, NM. Bernalillo County
13 Sheriff's Officers (BCSO) located a 2006 Chevrolet white four-
14 door/crew cab pickup bearing Oklahoma license plate 979DUH,
15 registered to Gary and Linda. BCSO and NMSP conducted
16 surveillance on the vehicle and interviewed local shop owners in
17 the shopping center where the vehicle was parked. One shop
18 owner indicated that the vehicle had been parked in the lot for
19 the past day or two. NMSP secured the vehicle and obtained a
20 search warrant.

21
22 6. During the search of the debris of the burned trailer,
23 NMSP recovered three bullet casings, one of which was easily
24 identified as .40 caliber, and multiple items which appeared to
25 be projectiles and/or projectile fragments of unknown caliber in
26 close proximity to the human remains. No firearms were located
27 in the search of the burned trailer.

ACV

1 7. During the search of the 2006 Chevrolet pickup, a roll
2 of paper towels was recovered on the front passenger seat and an
3 open bottle of brake fluid was recovered from the center console
4 area. The plastic wrapping from a roll of Bounty brand paper
5 towels was located on the driver's side floorboard. Two
6 developed fingerprints were found on the plastic wrapping.
7 Blood smears were discovered on the inside of the lid of a white
8 cooler located in the bed of the truck, the driver's and front
9 passenger seats, and on the interior of the rear driver's side.
10 The exterior of the four doors, particularly around the door
11 handles, had indications that they had been wiped in a manner
12 consistent with someone trying to eradicate or conceal
13 fingerprints. No firearms were recovered in the search of the
14 2006 Chevrolet pickup.

15
16 8. The fingerprints recovered from the Bounty paper towel
17 plastic wrapping were examined by the New Mexico State
18 Department of Public Safety Northern Forensic Crime Laboratory
19 (NFCL) and identified as those of McCluskey. Later, on August
20 19, 2010, the NFCL also confirmed that at least one of the blood
21 smears recovered from the truck matched the DNA of one or both
22 of the victims.

23
24 9. On August 9, 2010, Province was arrested alone in
25 Meeteetse, WY. When he was arrested, Province was carrying a
26 backpack that contained a 9 millimeter handgun.

27
28 10. On August 10, 2010, NMSP Agents Patrick Bucksath and

A4

1 Joshua Armijo interviewed Province who was in custody in Cody,
2 WY. Province was verbally advised of his Miranda rights and he
3 agreed to answer questions. The interview was digitally
4 recorded. On August 20, 2010, NMSP Agent Bucksath and FBI SA
5 Marcus B. McCaskill again interviewed Province while en route
6 from Amarillo, TX, to Albuquerque, NM, in United States Marshal
7 custody. Province was again verbally advised of his Miranda
8 rights and he again agreed to answer questions. The interview
9 was digitally recorded.

10
11 11. Province said that immediately after their escape, he,
12 McCluskey, and Welch became separated from Renwick while trying
13 to locate the vehicle that Welch had parked in the desert to
14 effect their flight from the prison. Welch had packed the
15 vehicle with clothing and food to aid the group in the flight.
16 Welch provided Province and McCluskey two .40 caliber semi-
17 automatic handguns that she purchased in preparation for the
18 escape. When he, McCluskey, and Welch could not locate the
19 vehicle, they kidnapped two semi-truck drivers using the
20 handguns and used their truck to travel to Flagstaff, AZ. Upon
21 arriving in Flagstaff, AZ, McCluskey, Welch, and Province voted
22 on whether to kill the two truck drivers, with McCluskey voting
23 to kill them and Province and Welch voting to release them
24 unharmed. They released the two truck-drivers unharmed.

25
26 12. Province said that, while the three were still in
27 Arizona, McCluskey secured a small, gray sedan vehicle, possibly
28 a Nissan Sentra, though Province was unsure of the exact type of

1 car. Province did not know where McCluskey obtained the
2 vehicle. Province was unclear about which roads the group
3 traveled but thought that the group entered New Mexico first
4 after traveling through Safford, AZ. Shortly after arriving in
5 New Mexico, Province noticed that the registration on the
6 license for the gray sedan was expired, and one of them stole a
7 current New Mexico license plate from another car, substituting
8 it for the expired license. The group then traveled through New
9 Mexico and part of Texas, primarily traveling eastbound,
10 possibly on Interstate 40.

11
12 13. Sometime on the morning of August 2, 2010, Province,
13 who'd been sleeping in the vehicle while the other two drove
14 through the night, awoke to find that they were headed back
15 westbound, possibly on Interstate 40. All three were tired of
16 traveling and sleeping in the sedan, and agreed that it would be
17 a good idea to target someone driving a camper or trailer to
18 steal. The three stopped at a rest area. While at the rest
19 area, McCluskey and Welch noticed Gary and Linda in and around
20 their truck and camping trailer. McCluskey and Welch showed the
21 truck and camping trailer to Province and told him they thought
22 that Gary and Linda were a good "prospect." McCluskey and
23 Province watched Linda leave the trailer and head back toward
24 the pickup truck, where Gary was seated in the front drivers
25 seat. McCluskey and Province fell in walking behind Linda and
26 forced her into the front passenger seat of the pickup truck at
27 gunpoint. Both McCluskey and Province pointed their handguns at
28 Linda and Gary. Gary reached below him with his hand, as though

1 he was going to retrieve something from beneath the seat.
2 Province thought that Gary was reaching for a weapon said, "I
3 wouldn't do that if I were you." Gary put his hands up and told
4 them that he did not have a gun in the truck but did have one in
5 the trailer. McCluskey and Province got into the back seat of
6 the pickup truck with Gary and Linda's dogs and ordered Gary to
7 drive out of the rest area and continue on Interstate 40
8 westbound. Welch, who had watched out for McCluskey and
9 Province while they forced Linda into the pickup truck, followed
10 behind the truck and camping trailer driving the gray sedan.
11

12 14. On August 20, 2010, NMSP Agent Bucksath and SA
13 McCaskill stopped with Province at a rest area on the north side
14 of Interstate 40 just inside the New Mexico border. The rest
15 area is located at exit number 372. Province identified the
16 rest area as the same rest area where they forced Linda at
17 gunpoint into the pickup truck and drove away with them.
18 Province recognized the general layout of the rest area. He
19 also recognized a distinctive tree growing near the rest area
20 building that he remembered looking at before McCluskey and
21 Welch approached him to point out Gary and Linda. Province was
22 also shown photographs from the inside of the rest area building
23 where the New Mexico Transportation Department has travel
24 brochures and maps displayed in racks and he recognized the
25 inside of the building from when he went inside to use the rest
26 room before forcing Linda into the truck.
27

28 15. Province recounted how McCluskey directed Gary to

1 continue driving westbound on Interstate 40. McCluskey then
2 directed Gary to pull off of the interstate, travel north, and
3 then take the first available right. After traveling a distance
4 between one and two miles, McCluskey directed Gary to turn the
5 truck and camping trailer around and return the opposite
6 direction. McCluskey then directed Gary to stop the truck and
7 camping trailer at a location Province described as having a big
8 brown or rust-colored water or oil tank. At Gary's suggestion,
9 McCluskey told Gary and Linda that he was going to unhook the
10 camping trailer and just take the truck.

11
12 16. On August 20, 2010, NMSP Agent Bucksath and SA
13 McCaskill showed Province several exits off of Interstate 40
14 located west of the rest area located at exit number 372.
15 Province was unable to locate the exact spot where McCluskey
16 directed Gary to drive to and stop the truck and camping
17 trailer. Based on the driving time and other landmarks Province
18 located along Interstate 40, Province believes that this
19 location is most likely somewhere between Tucumcari, NM, and
20 Santa Rosa, NM. Province did not believe McCluskey was familiar
21 with the area where they stopped, only that McCluskey was trying
22 to locate a secluded location to stop.

23
24 17. Province said that, after the truck and camping
25 trailer were stopped, McCluskey and Welch took Gary and Linda
26 into the camping trailer to search for firearms. Province
27 "policed" up the dogs outside the trailer, as they had gotten
28 loose when he and McCluskey got out of the truck. Welch came

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1 back out of the trailer and gave Province a bag that had two
2 weapons inside it, a .38 caliber revolver and a 9 millimeter
3 handgun. Province verified that the 9 millimeter handgun he was
4 carrying when he was arrested was the 9 millimeter handgun that
5 Welch gave to him in a bag from the camping trailer.

6
7 18. While both Welch and Province were outside of the
8 trailer, Province heard four or five gunshots ring out from
9 inside the trailer. Province and Welch ran to the trailer and
10 Province looked inside. Province could see Gary sitting in a
11 "breakfast nook" type area of the trailer, with his back against
12 the outside wall and window of the trailer and his head tilted
13 back. Province could not see Linda but thought she was seated
14 opposite from Gary, across the table in the "breakfast nook."
15 Province could not tell the extent of any injuries or wounds to
16 Gary. Province could smell expended gunpowder coming from
17 inside the trailer. McCluskey asked Province to help him move
18 the bodies down from their location because he was afraid that
19 someone might see Gary through the window from the outside.
20 Province could not recall for certain but thinks it's possible
21 that he helped McCluskey pull the bodies down from a sitting
22 position at the "breakfast nook."

23
24 19. Province got into the gray sedan with Welch and
25 followed McCluskey who was driving the truck and camping
26 trailer. Before leaving, Province loaded the three dogs, who
27 had somehow gotten blood on them, into the truck with McCluskey.
28 McCluskey drove back to Interstate 40 and drove westbound.

1 McCluskey pulled into a Phillips 66 gas station at Exit 277 in
2 Santa Rosa, NM, for gasoline. McCluskey called Province over to
3 the truck and gave him money to purchase gasoline. McCluskey
4 told Province he could not get out of the truck because he was
5 covered in blood. Province pumped the gasoline and went inside
6 to pay for the gasoline. When he returned, McCluskey told him
7 that Welch had noticed blood leaking out of the trailer door
8 onto the ground. Province went back to look but Welch had
9 already cleaned up much of the blood. Province noticed brown
10 stains on the bottom of the camper door and on the ground
11 underneath the camper door.

12
13 20. On August 11, 2010, NMSP Agent David O'Leary located a
14 large brown spot on the ground at the Phillips 66 gas station
15 just off of Interstate 40 at Exit 277. On August 20, 2010, NMSP
16 Agent Bucksath and SA McCaskill stopped with Province at the
17 Phillips 66 gas station just off of Interstate 40 at Exit 277.
18 Province identified the location as the same location where he
19 pumped gas into the truck at McCluskey's direction.

20
21 21. McCluskey then proceeded in the truck and camping
22 trailer to a dirt lot located next to a Dairy Queen not far from
23 the Phillips gas station. Welch parked the gray sedan in the
24 Dairy Queen parking lot, and she and Province got into the
25 truck. McCluskey then drove the truck and camping trailer back
26 westbound on Interstate 40. McCluskey took an exit off of the
27 interstate and then turned onto a dirt road and found a location
28 to back the trailer into that was not visible from the

1 interstate. With Welch's help, McCluskey unhitched the camping
2 trailer and pulled it away from the truck. Province unloaded
3 the dogs from the truck and dumped food out for them from bins
4 he located in back of the truck. Welch and McCluskey went into
5 the trailer and poured out liquor they had located in the
6 trailer onto the floor and fixtures. They lit the liquor using
7 matches in hopes of burning the camping trailer with Gary and
8 Linda's body still inside. Before leaving the area, they made
9 sure that the fire had taken and was burning well.

10
11 22. McCluskey drove the truck back to the parking lot
12 where the gray sedan was parked. Once there, Province took over
13 driving the truck, following McCluskey and Welch in the gray
14 sedan, and they headed westbound on Interstate 40. Upon
15 arriving in Albuquerque, NM, Province, McCluskey, and Welch
16 stopped at a gas station just off of the interstate. McCluskey
17 told Province to buy brake fluid and paper towels from the gas
18 station to wipe down the truck, in hopes of eradicating or
19 concealing their fingerprints.

20
21 23. Province then drove the truck to a shopping center
22 where they intended to abandon it. Province and McCluskey wiped
23 down everything they thought they had touched using the paper
24 towels and brake fluid. Welch took one or two blankets or
25 quilts from the truck and Province took a back pack from inside
26 the truck. The three then drove away in the gray sedan.
27 Province verified that the backpack he was carrying when he was
28 arrested was the backpack he had taken from the back of the

1 truck before leaving.

2
3 24. On August 20, 2010, NMSP Agent Bucksath and SA
4 McCaskill stopped with Province at a shopping center located at
5 6601 4th Street in Albuquerque, NM, where Gary and Linda's 2006
6 Chevrolet white four-door/crew cab pickup bearing Oklahoma
7 license plate 979DUH was later recovered. Province identified
8 the location as the place where he had parked the truck and
9 where he and McCluskey had wiped the truck down.

10
11 25. Province asked McCluskey and Welch to drop him off in
12 Yellowstone Park in Wyoming. The group traveled to Wyoming and
13 McCluskey and Welch dropped Province off at one of the entrances
14 to the park. After one or two nights in Yellowstone, Province
15 made his way to Meeteetse, WY, where he was arrested.

16
17 26. On August 19, 2010 a United States Forest Service
18 employee patrolling the Gabaldon Camp Ground, at the base of
19 Mount Baldy, in the Apache-Sitgreaves National Forest, in
20 eastern Arizona, observed two people who he believed to be
21 McCluskey and Welch. The Forest Service employee was aware of
22 their appearance due to the heavy publicity regarding their
23 escape from the Arizona prison. The Forest Service employee
24 informed law enforcement officers from Apache County Sheriff's
25 Office (ACSO), and they responded, positively identified
26 McCluskey and Welch, and arrested them.

27
28 27. During the arrest, ACSO deputies recovered a stainless

1 steel .38 caliber revolver with a black handgrip from Welch.
2 ACSO Sergeant John Scruggs warned the other deputies not to
3 handle the revolver because it could be a murder weapon. Upon
4 hearing Sgt. Scruggs' instruction to other deputies, McCluskey
5 spontaneously remarked "That's not the murder weapon. The
6 murder weapon is still in the tent."

7
8 28. ACSO Commander Webb Hogle described the scene to NMSP
9 officers and the FBI. A gray colored Nissan Sentra sedan,
10 bearing New Mexico license plate LJR-322, (identified as a
11 stolen license plate), Vehicle Identification Number (VIN)
12 3N1AB41DXVL004545, was parked at the campsite. The keys to the
13 car were in the ignition. The site was secured and a search
14 warrant was obtained. During the search of the campsite,
15 blankets were recovered.

16
17 29. On August 20, 2010, FBI Special Agent James Rominger,
18 interviewed McCluskey at the Apache County Jail, where he was in
19 custody. McCluskey was verbally advised of his Miranda rights
20 and he agreed to answer questions, executing an Advice of Rights
21 Form FD-395. The interview was digitally recorded.

22
23 30. McCluskey stated that he took Gary and Linda at
24 gunpoint at a rest area on Interstate 40 east Albuquerque, NM.
25 McCluskey recounted how he took Gary and Linda into the trailer
26 and, while both Province and Welch were outside, he shot Gary
27 once in the head, near the temple, and then shot Linda three
28 times. McCluskey said that he felt he had to kill Gary and

1 Linda because it was his, Province, and Welch's only chance to
2 get away. McCluskey verified that the .40 caliber handgun in
3 the tent at the campsite was the weapon he used to shoot Gary
4 and Linda. McCluskey recalled stopping at a gas station to buy
5 gas after killing Gary and Linda. While at the gas station,
6 Province or Welch noticed that there was blood leaking out of
7 the trailer.

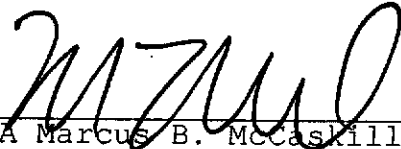
8
9 31. On August 20, 2010, SA Rominger, interviewed Welch at
10 the Apache County Jail, where she was in custody. Welch was
11 verbally advised of her Miranda rights and she agreed to answer
12 questions, executing an Advice of Rights Form FD-395. The
13 interview was digitally recorded.

14
15 32. Welch recounted identifying Gary and Linda at a rest
16 area because she, McCluskey, and Province had agreed to find
17 someone who was driving a camper or trailer they could steal to
18 continue their flight. Welch brought Gary and Linda to
19 McCluskey's attention. Welch watched as McCluskey and Province
20 forced Linda into the truck at gunpoint. After Welch had
21 joined Province and McCluskey in the truck, the group drove the
22 truck and camping trailer to a place in the desert. Welch
23 searched the trailer and located several firearms. While she
24 was outside of the trailer and McCluskey was inside the trailer
25 with Gary and Linda, she heard two gunshots from inside. Welch
26 ran to the trailer and saw that McCluskey had shot Gary and
27 Linda. The three doused the camper in liquor and lit it on fire
28 to destroy the camper and the bodies.

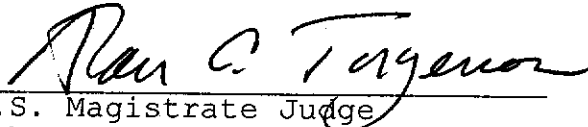
1 33. In view of the facts presented in this affidavit, the
2 affiant believes there is probable cause to believe that, on or
3 about August 2, 2010, John Charles McCluskey violated 18 USC
4 2119(3), in that he took, with the intent to cause death or
5 serious bodily injury, a 2006 Chevrolet white four-door/crew cab
6 pickup bearing Oklahoma license plate 979DUH, registered to Gary
7 and Linda Haas, with a 32-foot camping trailer in tow, that
8 motor vehicle having been transported, shipped, or received in
9 interstate or foreign commerce, from Gary and Linda Haas by
10 force and violence and/or intimidation, and that Gary and Linda
11 Haas' death resulted from the crime.

12
13 34. In view of the facts presented in this affidavit, the
14 affiant believes there is probable cause to believe that, on or
15 about August 2, 2010, John Charles McCluskey violated 18 USC
16 924(c)(1)(A)(iii), in that, while in the commission of a crime
17 of violence for which the person may be prosecuted in a court of
18 the United States, namely a violation of 18 USC 2119, he
19 discharged a firearm.

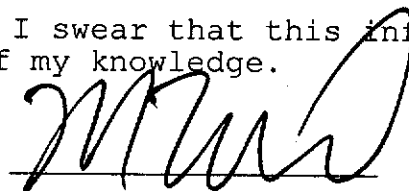
20
21 35. In view of the facts presented in this affidavit, the
22 affiant believes there is probable cause to believe that, on or
23 about August 2, 2010, John Charles McCluskey violated 18 USC
24 924(j)(1), in that, while in the commission of a violation of 18
25 USC 924 c)(1)(A)(iii), he murdered Gary and Linda Haas.


SA Marcus B. McCaskill
Special Agent
Federal Bureau of Investigation

Subscribed and sworn to before me this 23rd day of August, 2010.


U.S. Magistrate Judge
Albuquerque, NM

I swear that this information is true and correct to
be best of my knowledge.



SPECIAL AGENT,
Federal Bureau of Investigation

Reviewed and approved by AUSA